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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/645,605	08/22/2003	Egon Blum	2003-1109A	8589

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WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON, DC 20006-1021

EXAMINER

HANSEN, JAMES ORVILLE

ART UNIT	PAPER NUMBER
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3637

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/20/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/645,605	Applicant(s) BLUM ET AL.	
	Examiner James O. Hansen	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-44 is/are pending in the application.
- 4a) Of the above claim(s) 23-32 and 42 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22,33-41,43 and 44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on January 5, 2007 has been entered.

Election/Restrictions

2. It is noted that previously submitted claims 23-32 & 42 were directed to an invention that was independent or distinct from the invention originally claimed for the following reason: The claims in question were directed to a species that was not elected by applicant in the reply dated January 6, 2006.

Since applicant has received an action on the merits for the originally presented invention, the invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 23-32 & 42 were withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:
- The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 22, 33-41, 43 & 44 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject

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matter which applicant regards as the invention. Claims 22 and 44 as presently amended are deemed to be misdescriptive of the elected embodiment [Group IV] since it does not appear from the disclosure as originally filed that the "locking device" is operable to lock the running carriage to the "pull-out rail" [drawer rail] as applicant now claims since the elected embodiment [figures 7-17e] does not support this arrangement. The disclosure states that the support rail (1) includes a tab (19) forming a stop for the rocker (17) a.k.a. the "locking device", while the pull-out rail (2) is provided with an opening (50) that serves as a deflection means. A review of the disclosure pertinent to the elected species did not yield support for the locking device locking the carriage to the pull-out rail [but does disclose that the locking device can lock the carriage to the support rail]. As such, it is not clear how the interconnections of elements disclosed are able to function as claimed. Consequently, the remaining claims are rejected since they are dependent upon an indefinite claim.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 22, 33, 37-39, 41, 43 & 44 are rejected under 35 U.S.C. 102(b) as being anticipated by Rock et al., [U.S. Patent No. 4,089,567]. Rock (figures 1-12) teaches of a pull-out guide assembly for a drawer, comprising: a support rail (1) to be mounted on a carcass (fixed structure e.g.); a pull-out rail (4) to be mounted on the drawer (drawer e.g.); and a running carriage (6) mounted between the support rail and the pull-out rail and operable to move between a front end position and a rear end

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position in a differential manner, the running carriage including: rollers (7) for transmitting a load of the drawer between the support rail and the pull-out rail; and a locking device (viewed as 22 and its engaged components) operable to lock the running carriage to the support rail [as best understood by the examiner in view of the 112(2) rejection disclosed above] at a first predetermined point (viewed as the point where element 26 engages with element 14', so far as broadly recited) located between the front end position and the rear end position, and operable to unlock the running carriage from the support rail at a second predetermined point (viewed as the point where element 18 engages with the slanted edge of element 22, so far as broadly recited) located between the front end position and the rear end position due to relative movement between the support rail and the pull-out rail (pull-out rail pushed in an engaging an element of the locking device); wherein the support rail, the pull-out rail, and the running carriage are arranged and interconnected such that, if the running carriage is locked to the support rail at the first predetermined point by the locking device while moving toward the rear end position (it is viewed that there is some "play" or tolerance between the engagement of element 26 with 14', thereby the carriage could be viewed as "moving" [albeit minimally] while still locked to the rail as the lever (22) is transferred from the locked state to a released state], the running carriage is operable to continue moving toward the rear end position in the differential manner after being unlocked by the locking device at the second predetermined point, as readily apparent to the examiner. As to claim 33, the support rail has a stop (14') and the pull-out rail has a deflection unit (18) for receiving the locking device. As to claim 37, the locking device comprises a rocker (22, 24) tiltably mounted on the running carriage, the rocker having two stop faces (face of 26 and face on the bottom

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on 22) shaped to abut against a stop (edge of 14' and 18) on each of the support rail and the pull-out rail respectively. As to claim 38, the tiltable rocker has an adjustable shape (the shape is viewed as being adjustable when 24 flexes). As to claim 39, the tiltable rocker comprises a first part (main part 22) and a second part (spring part 24) connected to each other in an articulated manner, each of the first part and the second part having a stop face (as noted above). As to claim 41, one (note the portion between the upper surface of 26 and 22) of the stop faces is viewed as being concave, while the other (note the portion on the underside of 24) stop face is viewed as being convex. As to claim 43, the locking device is operable to lock the running carriage to the support rail [as best understood by the examiner – note above] at the first point if a position of the carriage with respect to the support rail and pull-out rail is incorrect. As to claim 44, the same general claimed limitations have been addressed as disclosed above.

Allowable Subject Matter

7. Claims 34-36 & 40 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

8. Applicant's arguments filed January 5, 2007 have been fully considered but they are not persuasive as to the Rock reference in view of the pending 112(2) rejections. Accordingly, it is viewed that the above prior art rejection adequately addresses applicant's remarks concerning the anticipation of the claimed elements.

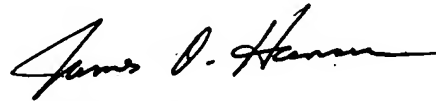
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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James O. Hansen whose telephone number is 571-272-6866. The examiner can normally be reached on Monday-Friday between 8-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



James O. Hansen
Primary Examiner
Art Unit 3637

JOH
March 19, 2007